

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

DANIEL HOUDE,)	
Plaintiff)	
)	
v.)	
)	
ROBERT TURGEON, STEPHEN)	
GUNNERSON, KEVIN JOHANSON,)	
MATTHEW D'ANDREA, BRIAN)	
HALLORAN and THOMAS C. DUFFY)	C.A. NO. 05-40075FDS
Defendants)	

DEFENDANTS' MOTION IN LIMINE
AS TO HEARSAY STATEMENTS

Defendants Robert Turgeon, Stephen Gunnerson, Kevin Johanson, Matthew D'Andrea, Brian Halloran and Thomas C. Duffy ("Defendants") hereby move this Court to exclude all evidence as to hearsay statements purportedly made by (1) a judge at Plaintiff's arraignment on charges stemming from the arrest that gives rise to the present lawsuit; (2) an unknown and unnamed police officer in the booking area of the Worcester Police Department; and (3) an unknown and unnamed police officer at the scene of Plaintiff's arrest.

Hearsay is defined as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Fed. R. Evid. 801(c). Plaintiff testified in his deposition, and is expected to testify at

trial that during his arrest he heard an individual arrive on the scene and make statements such as "what are all my cars doing here" and "get off of him." The individual has never been identified, nor is he/she a party to this lawsuit. Plaintiff was clear in his deposition testimony that the individual who purportedly made such statements arrived late on the scene, and, accordingly, he/she could not be one of the Defendants. Plaintiff also testified in his deposition that an individual in the booking room at the Worcester Police Department, as well as a judge at Plaintiff's arraignment both made statements about Plaintiff's physical appearance. Neither individual has been identified, nor are they parties to this action. Accordingly, the purported statements constitute classic hearsay not falling within any of the hearsay exceptions provided in the Federal Rules of Evidence.

WHEREFORE, Defendants move this Court to exclude all testimony of the hearsay statements set forth herein.

ROBERT TURGEON, STEPHEN
GUNNERSON, KEVIN JOHANSON,
MATTHEW D'ANDREA, BRIAN
HALLORAN and THOMAS C. DUFFY

By their attorney,

/s/ Janet J. McGuiggan
Janet J. McGuiggan
Assistant City Solicitor
City Hall, Room 301
455 Main Street
Worcester, MA 01608
(508) 799-1161
BBO #630013

CERTIFICATE OF SERVICE

I, Janet J. McGuiggan, hereby certify that on this 23d day of January, 2008, I served upon Plaintiff the within motion by electronically filing the same with the Court with electronic notice sent to all registered participants.

/s/ Janet J. McGuiggan
Janet J. McGuiggan